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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE233

Takes of Marine Mammals Incidental to Specified Activities; St. George Reef Light Station Restoration and Maintenance at Northwest Seal Rock, Del Norte County, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) implementing regulations, NMFS, we, hereby give notice that we have issued an Incidental Harassment Authorization (Authorization) to the St. George Reef Lighthouse Preservation Society (Society) to take four species of marine mammals, by harassment incidental to conducting aircraft operations, lighthouse renovation, and light maintenance activities on the St. George Reef Light Station on Northwest Seal Rock in the northeast Pacific Ocean from February 19, 2016 through February 18, 2017.

DATES: Effective February 19, 2016, through February 18, 2017.

ADDRESSES: An electronic copy of the final Authorization, the Society's application, and NMFS' environmental assessment are available by writing to Jolie Harrison, Division Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910; by telephoning the contacts listed here, or by visiting the internet at: <http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm>.

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 427-8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if, after NMFS provides a notice of a proposed authorization to the public for review and comment: (1) NMFS makes certain findings; and (2) the taking is limited to harassment.

An Authorization for incidental takings for marine mammals shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such taking are set forth. NMFS has defined “negligible impact” in 50 CFR 216.103 as “an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.” Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited

to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

On October 1, 2015, the Society requested that we issue an Authorization for the take of marine mammals, incidental to conducting restoration activities on the St. George Reef Light Station (Station) located on Northwest Seal Rock offshore of Crescent City, California in the northeast Pacific Ocean. NMFS determined the application complete and adequate on October 7, 2015 and published a notice of proposed Authorization on October 26, 2015 (80 FR 65201). The notice afforded the public a 30-day comment period on the proposed MMPA Authorization.

The Society proposes to conduct aircraft operations, lighthouse renovation, and periodic maintenance on the Station's optical light system on a monthly basis. The proposed activity would occur on a monthly basis over one weekend, February 2016 through February 2017. The Society would not conduct the proposed activities between May 1 and October 31, 2016. The following specific aspects of the proposed activities would likely to result in the take of marine mammals: (1) helicopter landings/takeoffs; (2) noise generated during restoration activities (*e.g.*, painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.*, bulb replacement and automation of the light system); and (4) human presence. Thus, NMFS anticipates that take, by Level B harassment only, of California sea lions (*Zalophus californianus*); Pacific harbor seals (*Phoca vitulina*); Steller sea lions (*Eumetopias jubatus*) of the eastern U.S. Stock; and northern fur seals (*Callorhinus ursinus*) could result from the specified activity.

Description of the Specified Activity

Overview

To date, NMFS has issued four Authorizations to the Society for the conduct of the same activities from 2010 to 2015 (75 FR 4774, January 29, 2010; 76 FR 10564, February 25, 2011;

77 FR 8811, February 15, 2012; and 79 FR 6179, February 3, 2014). This is the Society's fifth request for an annual Authorization as their last Authorization expired on April 10, 2015.

The Station, listed in the National Park Service's National Register of Historic Places, is located on Northwest Seal Rock offshore of Crescent City, California in the northeast Pacific Ocean. The Station, built in 1892, rises 45.7 meters (m) (150 feet (ft)) above sea level. The structure consists of hundreds of granite blocks topped with a cast iron lantern room and covers much of the surface of the islet. The purpose of the project is to restore the lighthouse and to conduct annual and emergency maintenance on the Station's optical light system.

Dates and Duration

The Society proposes to conduct the activities (aircraft operations, lighthouse restoration, and maintenance activities) at a maximum frequency of one session per month. The proposed duration for each session would last no more than three days (*e.g.*, Friday, Saturday, and Sunday). The Authorization would be effective from February 19, 2016 through February 17, 2017 with restrictions on the Society conducting activities from May 1, 2016 to October 31, 2016.

Specified Geographic Region

The Station is located on Northwest Seal Rock, a small rocky islet (41°50'24" N, 124°22'06" W) approximately nine kilometers (km) (6.0 miles (mi)) in the northeast Pacific Ocean, offshore of Crescent City, California (Latitude: 41°46'48" N; Longitude: 124°14'11" W). Northwest Seal Rock is approximately 91.4 m (300 ft) in diameter that peaks at 5.18 m (17 ft) above mean sea level.

Description of Activities

We outlined the purpose of the Society's activities in a previous notice for the proposed Authorization (80 FR 65201, October 26, 2015). The proposed activities have not changed between the notice for the proposed Authorization and this notice announcing the issuance of the Authorization. For a more detailed description of the authorized action, we refer the reader to the Detailed Description of Activities section in the notice for the proposed Authorization (80 FR 65201, October 26, 2015).

Comments and Responses

A notice of receipt of the Society's application and NMFS' proposal to issue an Authorization to the Society published in the **Federal Register** on October 26, 2015 (80 FR 65201). During the 30-day public comment period, we received one comment from the Marine Mammal Commission (Commission) which recommended that we issue the requested Authorization, provided that the Society carries out the required monitoring and mitigation measures as described in the notice for the proposed Authorization (80 FR 65201, October 26, 2015) and the application. We have included all measures described in the notice for the proposed Authorization (80 FR 65201, October 26, 2015) in the issued Authorization.

Description of Marine Mammals in the Area of the Specified Activity

The marine mammals most likely to be harassed incidental to the Society's helicopter operations, lighthouse restoration, and lighthouse maintenance on Northwest Seal Rock are primarily Steller and California sea lions and to a lesser extent the Pacific harbor seal and the eastern Pacific stock of northern fur seal.

Table 1 provides the following information: all marine mammal species with possible or confirmed occurrence in the proposed activity area; information on those species' regulatory

status under the MMPA and the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*); abundance; occurrence and seasonality in the activity area.

Table 1 - General information on marine mammals that could potentially haul out on Northwest Seal Rock.

Species	Stock	Regulatory Status ^{1, 2}	Stock Abundance ³	Occurrence and Seasonality
California sea lion (<i>Zalophus californianus</i>)	U.S.	MMPA - NC ESA – NL	296,750	Year-round presence
Northern fur seal (<i>Callorhinus ursinus</i>)	California Breeding	MMPA - D ESA – NL	14,050	Rare
Pacific harbor seal (<i>Phoca vitulina</i>)	California	MMPA - NC ESA – NL	30,968	Occasional, spring
Steller sea lion (<i>Eumetopias jubatus</i>)	Eastern Distinct Population Segment	MMPA - D ESA – DL	60,131 – 74,448	Year-round presence

¹ MMPA: D = Depleted, S = Strategic, NC = Not Classified.

² ESA: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.

³ 2015 draft NMFS Stock Assessment Reports: Carretta *et al.* (2015) and Muto and Angliss (2015).

NMFS refers the public to the 2015 draft NMFS Marine Mammal Stock Assessment Report available online at: <http://www.nmfs.noaa.gov/pr/sars/> for general information on the biology and distribution of these species which we presented in the notice of the proposed Authorization (80 FR 65201, October 26, 2015).

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within two km (1.2 mi) of the mainland shoreline. Neither CCR nor the Society has encountered California sea otters on Northwest Seal Rock during the course of the four-year wildlife study (CCR, 2001; SGRLPS, 2010; 2011; 2012)) nor has the Society encountered this species during the course of

the previously issued Authorizations for the same activities. The U.S. Fish and Wildlife Service manages the sea otter and NMFS will not consider this species further in this notice.

Potential Effects of the Specified Activities on Marine Mammals and Their Habitat

This section of the notice for the proposed Authorization (80 FR 65201, October 26, 2015) included a summary and discussion of the ways that components of the specified activity (*e.g.*, visual and acoustic disturbance) may impact marine mammals and their habitat. The “Estimated Take by Incidental Harassment” section later in this document will include a quantitative analysis of the number of individuals that NMFS expects the Society to take during this activity. The “Negligible Impact Analysis” section will include the analysis of how this specific activity would impact marine mammals. NMFS will consider the content of the following sections: “Estimated Take by Incidental Harassment,” “Mitigation,” and “Anticipated Effects on Marine Mammal Habitat,” to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals—and from that consideration—the likely impacts of this activity on the affected marine mammal populations or stocks.

Acoustic and visual stimuli generated by: (1) helicopter landings/takeoffs; (2) noise generated during restoration activities (*e.g.*, painting, plastering, welding, and glazing); and (3) maintenance activities (*e.g.*, bulb replacement and automation of the light system) may have the potential to cause the following: temporary or permanent hearing impairment and/or behavioral disturbance.

We provided detailed information on these potential effects notice for the proposed Authorization (80 FR 65201, October 26, 2015). The information presented in that notice has not changed.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the proposed activity is the restoration of a light station which would occur on the upper levels of Northwest Seal Rock which are not used by marine mammals. Thus, NMFS does not expect that the authorized activity would have any effect on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on Northwest Seal Rock.

The Society would remove all waste, discarded materials and equipment from the island after each visit. The proposed activities will not result in any permanent impact on habitats used by marine mammals, including prey species and foraging habitat. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals (*i.e.*, the potential for temporary abandonment of the site), previously discussed in this notice. Based on the preceding discussion, NMFS does not anticipate that the proposed activity would have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (where relevant).

Time and Frequency: The Society would conduct restoration activities at maximum of once per month between February 19, 2016, through February 18, 2017. Each restoration session

would last no more than three days. Maintenance of the light beacon would occur only in conjunction with restoration activities. The Society would not conduct restoration activities between the period of May 1, 2016, and October 31, 2016.

Helicopter Approach and Timing Techniques: The Society would ensure that its helicopter approach patterns to the Station and timing techniques do not disturb marine mammals as most practicable. To the extent possible, the helicopter should approach Northwest Seal Rock when the tide is too high for the marine mammals to haul-out on Northwest Seal Rock.

Since the most severe impacts (stampede) precede rapid and direct helicopter approaches, the Society's initial approach to the Station must be offshore from the island at a relatively high altitude (*e.g.*, 800 - 1,000 ft, or 244 - 305 m). Before the final approach, the helicopter shall circle lower, and approach from area with the lowest pinniped density. If for any safety reasons (*e.g.*, wind condition) the Society cannot conduct these types of helicopter approach and timing techniques, they must postpone the restoration and maintenance activities for that day.

Avoidance of Visual and Acoustic Contact with People on Island: The Society would instruct its members and restoration crews to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the Station. The door to the lower platform (which pinnipeds occasionally use at times) shall remain closed and barricaded to all tourists and other personnel.

Mitigation Conclusions

NMFS has carefully evaluated the Society's proposed mitigation measures in the context of ensuring that we prescribe the means of affecting the least practicable impact on the affected marine mammal species and stocks and their habitat. The evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals exposed to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).

5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.

6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of the Society’s proposed measures, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth “requirements pertaining to the monitoring and reporting of such taking.” The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for Authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that NMFS expects to be present in the proposed action area.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals within the mitigation zone (thus allowing for more effective implementation of the mitigation) in order to generate more data to contribute to the analyses mentioned later;

2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (*e.g.*, sound or visual stimuli) and the likelihood of associating those exposures with specific adverse effects, such as behavioral harassment, temporary or permanent threshold shift;

3. An increase in our understanding of how marine mammals respond to stimuli that we expect to result in take and how those anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

a. Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli;

b. Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli;

c. Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;

4. An increased knowledge of the affected species; and

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The Society proposes to sponsor marine mammal monitoring in order to implement the mitigation measures that require real-time monitoring and to satisfy the monitoring requirements of the Authorization. These include:

At least once during the period between February 19, 2016, and February 18, 2017, a qualified biologist shall be present during all three workdays at the Station. The qualified biologist hired will be subject to approval by us and they shall document use of the island by the

pinnipeds, frequency, (*i.e.*, dates, time, tidal height, species, numbers present, and any disturbances), and note any responses to potential disturbances.

Aerial photographic surveys may provide the most accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. The Society should complete aerial photo coverage of Northwest Seal Rock from the same helicopter used to transport the Society's personnel during restoration trips. The Society would take photographs of all hauled out marine mammals at an altitude greater than 300 m (984 ft) by a skilled photographer, prior to the first landing on each visit included in the monitoring program. Photographic documentation of marine mammals present at the end of each three-day work session shall also be made for a before and after comparison. These photographs will be forwarded to a biologist capable of discerning marine mammal species. Data shall be provided to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The original photographs can be made available to us or other marine mammal experts for inspection and further analysis.

The monitoring requirements in relation to the Society's proposed activities would include species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the restoration activities, including location, date, and time of the event. In addition, the Society would record observations regarding the number and species of any marine mammals either observed in the water or hauled out.

The Society can add to the knowledge of pinnipeds in the proposed action area by noting observations of: (1) unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing

carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

Summary of Previous Monitoring

The Society complied with the mitigation and monitoring required under the previous authorizations (2010-2014). They did not conduct any operations for the 2013 or 2014 season. However, in compliance with the 2012 Authorization, the Society submitted a final report on the activities at the Station, covering the period of February 15, 2012 through April 30, 2012. During the effective dates of the 2012 Authorization, the Society conducted one work session in March, 2012. The Society's aircraft operations and restoration activities on Northwest Seal Rock did not exceed the activity levels analyzed under the 2012 Authorization. During the March 2012 work session, the Society observed two harbor seals hauled out on Northwest Seal Rock. Both animals (a juvenile and an adult) departed the rock, entered the water, and did not return to the Station during the duration of the activities.

Reporting

The Society would submit a draft report to NMFS' Office of Protected Resources no later than 90 days after the expiration of the Authorization. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the Authorization. The Society will submit a final report to the NMFS Director, Office of Protected Resources within 30 days after receiving comments from NMFS on the draft report. If the Society receives no comments from NMFS on the report, NMFS will consider the draft report to be the final report.

The report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will provide:

1. A summary and table of the dates, times, and weather during all research activities.
2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.
3. An estimate of the number (by species) of marine mammals exposed to human presence associated with the Society's activities.
4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the Authorization and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (*e.g.*, stampede), Society personnel shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and the Assistant Western Regional Stranding Coordinator at (562) 980-3264. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (*e.g.*, wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Society shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. We will work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Society discovers an injured or dead marine mammal, and the marine mammal observer determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.*, in less than a moderate state of decomposition as we describe in the next paragraph), the Society will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and the Assistant Western Regional Stranding Coordinator at (562) 980-3264. The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with the Society to determine whether modifications in the activities are appropriate.

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.*, previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301-427-8401 and the Assistant Western Regional Stranding Coordinator at (562) 980-3264 within 24 hours of the discovery. Society personnel will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us. The Society can continue their survey activities while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines "harassment" as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. NMFS expects that the mitigation and monitoring measures would minimize the possibility of injurious or lethal takes. NMFS considers the potential for take by injury, serious injury, or mortality as remote. NMFS expects that the presence of Society personnel could disturb of animals hauled out on Northwest Seal Rock and that the animals may alter their behavior or attempt to move away from the Society's personnel.

As discussed earlier, NMFS considers an animal to have been harassed if it moved greater than 1 m (3.3 ft) in response to the Society's presence or if the animal was already moving and changed direction and/or speed, or if the animal flushed into the water. NMFS does not consider animals that became alert without such movements as harassed.

Based on the Society's previous monitoring reports, NMFS estimates that approximately 1,120 California sea lions (calculated by multiplying the maximum number of California sea lions observed on Northwest Seal Rock [160] by 7 months: February- April, November – February) of the restoration and maintenance activities), 1,085 Steller sea lions (calculated by multiplying the maximum number of Steller sea lions observed on Northwest Seal Rock [155] by 7 months, 42 Pacific harbor seals (calculated by multiplying the maximum number of harbor seals observed on Northwest Seal Rock [6] by 7 months), and 7 northern fur seals (calculated by

multiplying the maximum number of northern fur seals observed on Northwest Seal Rock [1] by 7 months) could be potentially affected by Level B behavioral harassment over the course of the Authorization. NMFS bases these estimates of the numbers of marine mammals that might be affected on consideration of the number of marine mammals that could be disturbed appreciably by approximately 51 hours of aircraft operations during the course of the activity. These incidental harassment take numbers represent approximately 0.38 percent of the U.S. stock of California sea lion, 1.80 percent of the eastern U.S. stock of Steller sea lion, 0.14 percent of the California stock of Pacific harbor seals, and 0.05 percent of the San Miguel Island stock of northern fur seal. However, actual take may be slightly less if animals decide to haul out at a different location for the day or if animals are foraging at locations away from Northwest Seal Rock at the time of the Societies proposed activities.

Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area, NMFS does not expect any injury or mortality to pinnipeds to occur and NMFS has not authorized take by Level A harassment for this proposed activity.

Encouraging and Coordinating Research

The Society would share observations and counts of marine mammals and all observed disturbances to the appropriate state and federal agencies at the conclusion of the activities.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact' is "an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival" (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (*i.e.*, population level effects) forms the

basis of a negligible impact finding. Thus, an estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be “taken” through behavioral harassment, NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

In making a negligible impact determination, NMFS considers:

- The number of anticipated injuries, serious injuries, or mortalities;
- The number, nature, and intensity, and duration of harassment;
- The context in which the takes occur (*e.g.*, impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);
- The status of stock or species of marine mammals (*i.e.*, depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);
- Impacts on habitat affecting rates of recruitment/survival; and
- The effectiveness of monitoring and mitigation measures to reduce the number or severity of incidental takes

To avoid repetition, our analysis applies to all the species listed in Table 1, given that NMFS expects the anticipated effects of the Society’s activities to be similar in nature.

Although the Society’s survey activities may disturb a small number of marine mammals hauled out on Northwest Seal Rock, NMFS expects those impacts to occur to a small, localized group of animals for a limited duration (*e.g.*, six hours in one day). Marine mammals would

likely become alert or, at most, flush into the water in reaction to the presence of the Society's personnel during the proposed activities. Disturbance will be limited to a short duration, allowing marine mammals to reoccupy Northwest Seal Rock within a short amount of time. Thus, the proposed action is unlikely to result in long-term impacts such as permanent abandonment of the area because of the availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the restoration activities and helicopter operations. Results from previous monitoring reports also show that the pinnipeds returned Northwest Seal Rock and did not permanently abandon haul-out sites after the Society conducted their activities.

The Society's activities would occur during the least sensitive time (*e.g.*, November through April, outside of the pupping season) for hauled out pinnipeds on Northwest Seal Rock. Thus, pups or breeding adults would not be present during the proposed activity periods.

Moreover, the Society's mitigation measures regarding helicopter approaches and restoration site ingress and egress would minimize the potential for stampedes and large-scale movements. Thus, the potential for large-scale movements and stampede leading to injury, serious injury, or mortality is low.

Any noise attributed to the Society's proposed helicopter operations on Northwest Seal Rock would be short-term (approximately 5 minutes per trip). We would expect the ambient noise levels to return to a baseline state when helicopter operations have ceased for the day. As the helicopter landings take place 15 m (48 ft) above the surface of the rocks on Northwest Seal Rock, NMFS presumes that the received sound levels would increase above 81-81.9 dB re: 20 μ Pa (A-weighted) at the landing pad. However, we do not expect that the increased received levels of sound from the helicopter would cause threshold shifts in hearing because the pinnipeds would flush before the helicopter approached Northwest Seal Rock; thus increasing the distance

between the pinnipeds and the received sound levels on Northwest Seal Rock during the proposed action.

If pinnipeds are present on Northwest Seal Rock, Level B behavioral harassment of pinnipeds may occur during helicopter landing and takeoff from Northwest Seal Rock due to the pinnipeds temporarily moving from the rocks and lower structure of the Station into the sea due to the noise and appearance of helicopter during approaches and departures. It is expected that all or a portion of the marine mammals hauled out on the island will depart the rock and slowly move into the water upon initial helicopter approaches. The movement to the water would be gradual due to the required controlled helicopter approaches (see “Mitigation” for more details), the small size of the aircraft, the use of noise-attenuating blade tip caps on the rotors, and behavioral habituation on the part of the animals as helicopter trips continue throughout the day. During the sessions of helicopter activity, if present on Northwest Seal Rock, some animals may be temporarily displaced from the island and either raft in the water or relocate to other haul-outs.

Sea lions have shown habituation to helicopter flights within a day at the project site and most animals are expected to return soon after helicopter activities cease for that day. By clustering helicopter arrival/departures within a short time period, we expect animals present to show less response to subsequent landings. NMFS anticipates no impact on the population size or breeding stock of Steller sea lions, California sea lions, Pacific harbor seals, or northern fur seals.

In summary, NMFS anticipates that impacts to hauled-out pinnipeds during the Society’s proposed helicopter operations and restoration/maintenance activities would be behavioral harassment of limited duration (*i.e.*, less than three days a month) and limited intensity (*i.e.*,

temporary flushing at most). NMFS does not expect stampeding, and therefore injury or mortality to occur (see “Mitigation” for more details). Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS finds that the total marine mammal take from the Society’s proposed survey activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that the Society’s proposed activities could potentially affect, by Level B harassment only, four species of marine mammal under our jurisdiction. For each species, these estimates are small numbers (each, less than or equal to one percent) relative to the population size. These incidental harassment take numbers represent approximately 0.32 percent of the U.S. stock of California sea lion, 0.42 percent of the eastern U.S. stock of Steller sea lion, 0.11 percent of the California stock of Pacific harbor seals, and 0.05 percent of the San Miguel Island stock of northern fur seal.

Based on the analysis contained in this notice of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS finds that the Society’s proposed activities would be limited to small numbers of marine mammals relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not

have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

NMFS does not expect that the Society's proposed helicopter operations and restoration/maintenance activities would affect any species listed under the ESA. Therefore, NMFS has determined that a section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an Authorization to the Society, NMFS has prepared an Environmental Assessment (EA) in 2010 that was specific to conducting aircraft operations and restoration and maintenance work on the St. George Reef Light Station. The EA, titled "Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities on St. George Reef Lighthouse Station in Del Norte County, California," evaluated the impacts on the human environment of our authorization of incidental Level B harassment resulting from the specified activity in the specified geographic region. At that time, NMFS concluded that issuance of an annual Authorization would not significantly affect the quality of the human environment and issued a Finding of No Significant Impact (FONSI) for the 2010 EA regarding the Society's activities. In conjunction with the Society's 2015 application, NMFS has again reviewed the 2010 EA and determined that there are no new direct, indirect, or cumulative impacts to the human and natural environment associated with the Authorization requiring evaluation in a supplemental EA and NMFS, therefore, reaffirms the 2010 FONSI. An electronic copy of the EA and the FONSI for this activity is available upon request (see **ADDRESSES**).

Authorization

NMFS has issued an Incidental Harassment Authorization to the St. George Reef Lighthouse Preservation Society for conducting helicopter operations and restoration activities on the St. George Light Station in the northeast Pacific Ocean, February 19, 2016, through February 18, 2017, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: February 19, 2016.

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